

## DESIGN SERVICES AGREEMENT

### Corporation Yard Administrative Offices Programming

THIS AGREEMENT is made at Fairfield, California, as of May 24, 2018, by and between the City of Fairfield, a municipal corporation (the "CITY") and ELS ARCHITECTURE AND URBAN DESIGN ("CONSULTANT"), who agree as follows:

1) SERVICES. Subject to the terms and conditions set forth in this Agreement, CONSULTANT shall provide to the CITY the services described in Exhibit "A," which consists of the proposal submitted by CONSULTANT. CONSULTANT shall provide said services at the time, place, and in the manner specified in Exhibit "A."

2) PAYMENT. CITY shall pay CONSULTANT for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit "B." The payments specified in Exhibit "B" shall be the only payments to be made to CONSULTANT for services rendered pursuant to this Agreement. CONSULTANT shall submit all billings for said services to the CITY in the manner specified in Exhibit "B."

3) FACILITIES AND EQUIPMENT. CONSULTANT shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.

4) GENERAL PROVISIONS. The general provisions set forth in Exhibit "C" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the provisions set forth in Exhibit "C" shall control.

5) INSURANCE REQUIREMENTS. The insurance requirements set forth in Exhibit "D" are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the requirements set forth in Exhibit "D" shall control.

6) EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

7) TERM. This agreement shall be in effect N/A; ~~or~~ until the scope of work is completed.

EXECUTED as of the day first above-stated.

City of Fairfield, a municipal corporation

By: 

City Manager

YBT

CONSULTANT

By: 

ELS Architecture + Urban Design



April 23, 2018 rev 4

Mr. Fred Beiner  
 Manager of Park Planning  
 City of Fairfield/Public Works  
 1000 Webster St, 3<sup>rd</sup> Floor  
 Fairfield, CA 94533

SUBJECT: City of Fairfield, Corp Yard Offices  
 420 Gregory Street, Fairfield  
 Proposal for Programming Services

Dear Mr. Beiner,

Thanks for the opportunity to meet you and your colleagues with the City of Fairfield. We are pleased to provide this revised proposal for Programming Services for the City of Fairfield offices at the Corporation Yard. This proposal is to provide you with a final preferred layout so the City can determine feasibility of adding space for (5) additional staff members in the existing building, making use of underutilized space. In addition we will include the front office area discussed during 4/17/2018 site visit, to maximize space for staff, including better layout for the three supervisors currently located in this area.

We anticipate that a new accessible single use restroom will be required as well as accessible path of travel upgrades required when the project exceeds the current State of California valuation threshold for alterations to existing buildings (for 2018: \$161,298). See attached plan for area of work boundary, based on our walkthroughs on 2/21/2018 and 4/17/2018:

Specifically the services will include the following tasks:

1. Review existing floor plans;
2. Draft floor plan from documents provided;
3. Meet with staff 2 times over a course of approximately 6 weeks to develop program and layouts, provide maximum (3) options, and identify a preferred layout for refinement;
4. Preliminary code analysis included to identify accessible and fire and life safety upgrades that may be triggered by project

**A. Base Fee Calculation.** It is our intent that the proposal process for both ELS and our consultant team should be totally transparent. If anything is unclear we will present you with our rationale and work with you to bring the costs within your budget. Our proposed **Basic Services Fee proposal is \$13,800** to be billed hourly up to a not to exceed budget. We will not exceed the budget without prior review and authorization from the City. We also propose a reimbursible budget of \$300 (see attached schedule for description of expenses in this category.)

Basic Services Design Fee (ELS)	\$13,500
<u>Reimbursible expenses budget</u>	<u>\$ 300</u>
<b>Total Fee</b>	<b>\$13,800</b>

**B. Schedule Milestones and Site Visits**

**Duration**

- ELS layout options 2 wks.
- Meet with staff to review options, site visit to confirm existing conditions
- Preferred plan, coordinated with city staff 4 wks
- Final Deliverable – annotated preferred plan layout suitable for budget pricing

Final preferred layout plan and summary will be delivered 6 weeks from Approval and Notice to Proceed.

**C. Qualifications and Assumptions**

- The scope of these services is to provide sketch layout for feasibility study and budgeting, not to provide Schematic Design.
- Services beyond the 6 week period may be the subject of Additional Services.
- No Structural, MEP, Civil, or other consultant services or surveying are included, nor anticipated to be required for programming and concept layout. Design team will identify potential issues/conditions that may require consultant input in a future phase of the project development.
- ELS will use hand held level to assess slopes at the exterior accessible path to the front entry of the building. If this indicates that the path may not be within acceptable slopes, a civil survey would be required to further develop an understanding of required upgrades.
- Detailed, measured as built drawings are not included in this proposal, nor considered to be necessary for these services. Plans will be based on PDF's provided by the city.
- A cursory code evaluation is included, but not a detailed building code analysis.
- Two meetings in person in Fairfield are included. On line meetings are included as necessary to complete the work within the suggested time frame.
- Services related to identification or removal of hazardous materials is excluded.

Thank you for inviting us to submit this proposal. We are grateful for the opportunity to work with the City of Fairfield. Please let us know if you have any questions or comments.

Sincerely,

Approved By:



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City of Fairfield

Diana Hayton, AIA, LEED BD+C, Principal

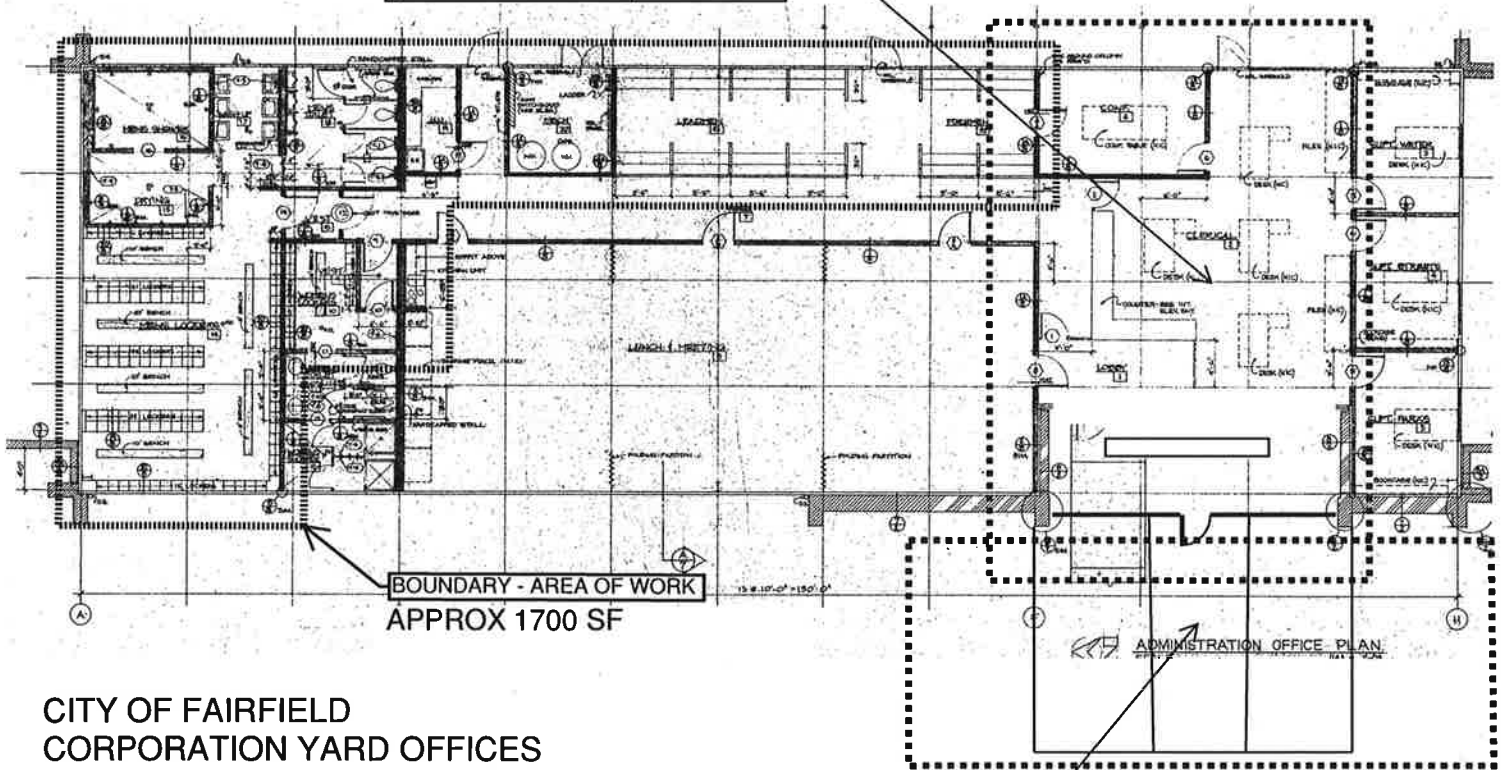
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Date

Enclosures:

ELS: Reimbursable Expenses and Rate Schedule

BOUNDARY - WORK AREA  
INCLUDES FRONT OFFICE  
SPACE (APPROX 1200 SF)  
(PER 4/17/2018 VISIT)



CITY OF FAIRFIELD  
CORPORATION YARD OFFICES

AREA OF WORK

ELS PROPOSAL REV 2 APRIL 23, 2018

PROVIDE CURSORY  
REVIEW OF PATH  
OF TRAVEL TO MAIN  
ENTRY OF BUILDING

## **EXHIBIT "B"**

### **PAYMENT**

- 1) The total contract price for services rendered by CONSULTANT under this Agreement shall not exceed Thirteen thousand, Eight-hundred dollars (\$13,800).
- 2) Payment shall be made to CONSULTANT on a time and materials basis, and CONSULTANT shall submit monthly invoices to the City for the same.
- 3) Any additional meetings or work required beyond that set forth in Exhibit "A" shall be mutually agreed to in writing by the CITY and CONSULTANT, and shall be billed on a time and materials basis to the City of Fairfield.



## RATE AND EXPENSE SCHEDULE

### HOURLY BILLING RATES BY CLASSIFICATION:

PRINCIPALS	\$200.00 - 300.00
ASSOCIATE PRINCIPALS	150.00 - 190.00
ASSOCIATES	135.00 - 180.00
PROFESSIONAL STAFF	90.00 - 180.00
TECHNICAL/SUPPORT STAFF	70.00 - 145.00

Rates are subject to revision on January 1, 2018 in accordance with cost of living adjustments. Individual billing rates and/or classifications may change during the year to reflect a change in status and/or merit salary adjustments.

### REIMBURSABLE EXPENSES:

Reimbursable expenses shall be billed at cost times 1.1 and shall include actual expenditures made in the interest of the project, in the following categories:

- 1) Outside consultants
- 2) Expense of transportation and living expenses in connection with out-of-town travel, as authorized by the Client (international flights shall be business class)
- 3) Long distance communications and facsimiles
- 4) Reproduction and photography
- 5) Postage, shipping and delivery
- 6) Fees paid for securing approval of authorities having jurisdiction over the project
- 7) Professional renderings and models as requested by the Client

### MISCELLANEOUS PROVISIONS:

Invoices will be submitted monthly and are due upon receipt. Invoices more than 60 days overdue will be subject to a handling charge of 1.5 percent per month. If the Owner fails to make payment when due, the Architect may, at its option, upon seven days' written notice to the Owner, suspend performance of services.

Architect's services may be terminated by either party upon seven days' written notice. In the event of termination that is not the fault of the Architect, the Architect shall be compensated for services performed and expenses incurred prior to termination.

The Drawings, Specifications and other documents prepared by the Architect for this Project are instruments of the Architect's service for use solely with respect to this Project and, unless otherwise provided, the Architect shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright. The Owner shall be permitted to retain copies, including reproducible copies, of the Architect's Drawings, Specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project. The Architect's Drawings, Specifications and other documents shall not be used by the Owner or others on other projects, for additions to this Project or for completion of this Project by others, unless the Architect is adjudged to be in default under the Agreement, except by agreement in writing and with appropriate compensation to the Architect.

If the Owner, or others through the Owner, request copies of electronic data files ("CAD Data") prepared by Architect or its Consultants for the Project, the parties agree to execute the Architect's CAD Agreement prior to the transfer of such CAD Data.

Unless otherwise provided, the Architect and Architect's sub-consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.

## **EXHIBIT "C"**

### **GENERAL PROVISIONS**

1) INDEPENDENT CONSULTANT. At all times during the term of this Agreement, CONSULTANT shall be an independent contractor and shall not be an employee of CITY. CITY shall have the right to control CONSULTANT only insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, CITY shall not have the right to control the means by which CONSULTANT accomplishes services rendered pursuant to this Agreement.

2) LICENSES; PERMITS; ETC. CONSULTANT represents and warrants to CITY that CONSULTANT has all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for CONSULTANT to practice CONSULTANT's profession. CONSULTANT represents and warrants to CITY that CONSULTANT shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any licenses, permits, and approvals which are legally required for CONSULTANT to practice his profession.

3) TIME. CONSULTANT shall devote such services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of CONSULTANT's obligations pursuant to this Agreement. CONSULTANT shall adhere to the Schedule of Activities as described in their Executive Summary.

4) CONSULTANT NOT AN AGENT. Except as CITY may specify in writing, CONSULTANT shall have no authority, express or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT shall have no authority, express or implied, pursuant to this Agreement, to bind CITY to any obligation whatsoever.

5) ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

6) PERSONNEL. CONSULTANT shall assign only competent personnel to perform services pursuant to this Agreement. In the event that CITY, in its sole discretion, at anytime during the term of this Agreement, desires the removal of any person or persons assigned by CONSULTANT to perform services pursuant to this Agreement, CONSULTANT shall remove any such person immediately upon receiving notice from CITY of the desire of CITY for the removal of such person or persons.

7) STANDARD OF PERFORMANCE. CONSULTANT shall perform all services required pursuant to this Agreement. Services shall be performed in the manner and according to the standards observed by a competent practitioner of the profession in which CONSULTANT is engaged in the geographical area in which CONSULTANT practices his profession. All products which CONSULTANT delivers to CITY pursuant to this Agreement shall be prepared in a workmanlike manner, and conform to the standards of quality normally observed by a person practicing in CONSULTANT's profession.

8) CANCELLATION OF AGREEMENT. This Agreement may be canceled at any time by the CITY at its discretion upon written notification to CONSULTANT. CONSULTANT is entitled to receive full payment for all services performed and all costs incurred up to and including the date of receipt of written notice to cease work on the

project. CONSULTANT shall be entitled to no further compensation for work performed after the date of receipt of written notice to cease work. All completed and incomplete products up to the date of receipt of written notice to cease work shall become the property of CITY.

9) PRODUCTS OF CONSULTING. All products of the CONSULTANT provided under this Agreement shall be the property of the CITY.

10) INDEMNIFY AND HOLD HARMLESS.

a) If AGREEMENT is an agreement for design professional services subject to California Civil Code § 2782.8(a) and CONSULTANT is a design professional, as defined in California Civil Code § 2782.8(c)(2), to the fullest extent allowed by law, CONSULTANT shall hold harmless, defend and indemnify the CITY, its officers, agents, employees, and volunteers from and against all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, except where caused by the active negligence, sole negligence, or willful misconduct of the CITY.

b) If AGREEMENT is not an agreement for design professional services subject to California Civil Code § 2782.8(a) or CONSULTANT is not a design professional as defined in subsection (a) above, to the fullest extent allowed by law, CONSULTANT shall indemnify, defend, and hold harmless the CITY, its officers, agents, employees and volunteers from all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by CONSULTANT or any person directly or indirectly employed by or acting as agent for CONSULTANT in the performance of this Agreement, including the concurrent or successive passive negligence of the CITY, its officers, agents, employees or volunteers.

It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this Agreement does not relieve CONSULTANT from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

CONSULTANT'S responsibility for such defense and indemnity shall survive termination or completion of this agreement for the full period of time allowed by law.

11) PROHIBITED INTERESTS. No employee of the CITY shall have any direct financial interest in this agreement. This agreement shall be voidable at the option of the CITY if this provision is violated.

12) LOCAL EMPLOYMENT POLICY. The CITY desires wherever possible, to hire qualified local residents to work on city projects. Local resident is defined as a person who resides in Solano County. The CITY encourages an active affirmative action program on the part of its contractors, consultants, and developers. When local projects



require, subcontractors, contractors, consultants and developers will solicit proposals from qualified local firms where possible.

As a way of responding to the provisions of the Davis-Bacon Act and this program, contractor, consultants, and developers will be asked, to provide no more frequently than monthly, a report which lists the employee's name, job class, hours worked, salary paid, city of residence, and ethnic origin.

13)CONSULTANT NOT A PUBLIC OFFICIAL. CONSULTANT is not a "public official" for purposes of Government Code §§ 87200 et seq. CONSULTANT conducts research and arrives at his or her conclusions, advice, recommendation, or counsel independent of the control and direction of the CITY or any CITY official, other than normal contract monitoring. In addition, CONSULTANT possesses no authority with respect to any CITY decision beyond these conclusions, advice, recommendation, or counsel.

14)EMPLOYMENT DEVELOPMENT DEPARTMENT REPORTING REQUIREMENTS. When the CITY executes an agreement for or makes payment to CONSULTANT in the amount of \$600 (six hundred dollars) or more in any one calendar year, CONSULTANT shall provide the following information to CITY to comply with Employment Development Department (EDD) reporting requirements:

a) Whether CONSULTANT is doing business as a sole proprietorship, partnership, limited liability partnership, corporation, limited liability corporation, non-profit corporation or other form of organization.

b) If CONSULTANT is doing business as a sole proprietorship, CONSULTANT shall provide the full name, address and social security number or federal tax identification number of the sole proprietor.

c) If CONSULTANT is doing business as other than a sole proprietorship, CONSULTANT shall provide CONSULTANT'S federal tax identification number.

## EXHIBIT "D"

### INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, or employees.

#### 1) MINIMUM SCOPE AND LIMITS OF INSURANCE

a) Commercial General Liability coverage (occurrence Form CG 00 01) with minimum limits of \$1,000,000 per occurrence for bodily injury, personal injury, products and completed operations, and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

b) Automobile Liability coverage (Form CA 00 01 with Code 1 – any auto) with minimum limits of \$1,000,000 per accident for bodily injury and property damage.

c) Workers' Compensation insurance as required by the State of California and Employers' Liability insurance, each in the amount of \$1,000,000 per accident for bodily injury or disease.

#### 2) INDUSTRY SPECIFIC COVERAGES

If checked below, the following insurance is also required.

- ☒ Professional Liability Insurance / Errors and Omissions Liability in the minimum amount of \$1,000,000 per claim/aggregate.
- ☐ Pollution Liability Insurance in the minimum amount of \$1,000,000 per occurrence
- ☐ Garage Keepers Insurance in the minimum amount of \$1,000,000 per occurrence
- ☐ Fidelity / Crime / Dishonesty Bond in the minimum amount of \$ \_\_\_\_\_
- ☐ MCS-90 Endorsement to Business Automobile insurance for transportation of hazardous materials and pollutants
- ☐ Builder's Risk / Course of Construction Insurance in the minimum amount of \$ \_\_\_\_\_.

### 3) INSURANCE PROVISIONS

a) DEDUCTIBLES AND SELF-INSURED RETENTIONS. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the CITY, its officers, officials, employees and volunteers; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

b) The general and automobile liability policies (and if applicable, pollution liability, garage keepers liability and builder's risk policies) are to contain, or be endorsed to contain, the following provisions:

- i) The CITY, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; and automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officers, officials, employees or volunteers.
- ii) For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the CITY, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the CITY, its officers, officials, employees or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.
- iii) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the CITY, its officers, officials, employees or volunteers.
- iv) The CONSULTANT'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- v) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the CITY.
- vi) The minimum limits stated above shall not serve to reduce the CONSULTANT'S policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured, whichever is greater.

c) ACCEPTABILITY OF INSURER. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the CITY.

d) VERIFICATION OF COVERAGE. CONSULTANT shall furnish the CITY with original endorsements effecting coverage required by this Exhibit D. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The

endorsements are to be on forms provided by the CITY or on forms equivalent to CG 20 10 11 85 subject to CITY approval. All insurance certificates and endorsements are to be received and approved by the CITY before work commences. At the request of the CITY, CONSULTANT shall provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

e) SUB-CONTRACTORS. CONSULTANT shall require all subcontractors to procure and maintain insurance policies subject to the requirements of Exhibit D. Failure of CONSULTANT to verify existence of sub-contractor's insurance shall not relieve CONSULTANT from any claim arising from sub-contractors work on behalf of CONSULTANT.